

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

THE COMMONWEALTH OF
MASSACHUSETTS, et al.

Defendants, and

THE COALITION FOR BUZZARDS BAY,

Intervenor-Defendant

THE AMERICAN WATERWAYS OPERATORS,
et al.

Intervenor-Plaintiff

v.

MITT ROMNEY, Governor of Massachusetts, et al.

Defendants

Civil Action No. 05-10112 JLT

**CROSS-MOTION OF THE COALITION FOR BUZZARD BAY
FOR SUMMARY JUDGMENT**

The Coalition for Buzzards Bay (“The Coalition”) hereby cross-moves this Court, pursuant to Fed. R. Civ. P. 56(a), to enter summary judgment in The Coalition’s favor as to the Counterclaim set forth in The Coalition’s First Amended Answer and Counterclaim. The Coalition seeks a ruling that the Coast Guard has unreasonably delayed implementing the

statutorily mandated testing for alcohol within 2 hours of a serious marine incident. As grounds therefor, the Coalition refers to Memorandum Of The Coalition For Buzzards Bay In Opposition To The United States' Motion For Summary Judgment And In Support Of Its Cross-Motion For Summary Judgment.

By its attorneys,

/s/ Jonathan M. Ettinger
Jonathan M. Ettinger (BBO #552136)
Elisabeth M. DeLisle (BBO # 658067)
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston, MA 02210
(617) 832-1000
jettinger@foleyhoag.com

Dated: July 12, 2005

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I, Jonathan M. Ettinger, hereby certify that on this date, I conferred with Steven Y. Bressler, counsel for the United States, regarding this Cross-Motion pursuant to Local Rule 7.1(A)(2), and we have been unable to narrow the issues presented in this Motion.

/s/ Jonathan M. Ettinger